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February 17, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

EX PARTE OR LATE FILED

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
12th Street Lobby, TW-A325
Washington, DC 20554

Re: Ex Parte Presentation in WT Docket No. 99-217 and CC Docket No. 96-98

Dear Ms. Salas:

David Turetsky and Julie Coons of Teligent, Inc., and myself, on Teligent's behalf, met today with David Krech, Joel Taubenblatt, and Irene Wu to discuss an upcoming videoconference between members of the Federal Communications Commission staff and its regulatory counterpart in Hong Kong, the Office of the Telecommunications Authority, in which telecommunications carrier access to multi-tenant buildings is to be discussed. During the course of our meeting, we discussed the harmful effects to facilities-based competition that result from unreasonable and discriminatory restrictions on telecommunications carrier access to multi-tenant buildings. We also discussed the manner in which such problems are being addressed in various fora throughout the United States such as in pending federal legislation and in statutes in Texas and Connecticut as well as the way in which Hong Kong and Canada have addressed these issues.

Because these topics concern a pending rulemaking at the Commission, in accordance with the Commission's rules, for each of the above-mentioned proceedings, I hereby submit to the Secretary of the Commission two copies of this notice of Teligent's ex parte presentation as well as two copies of written materials distributed to Mr. Krech, Mr. Taubenblatt, and Ms. Wu during the course of that meeting.

Respectfully submitted,

Gunnar D. Halley

Counsel for TELIGENT, INC.

cc: David Krech
Joel Taubenblatt
Irene Wu

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Guidelines for Property Owners, Developers and Managers for the Provision of Facilities within Property Developments for Access to Public Telecommunications and Broadcasting Services

For Whom are these Guidelines Prepared?

1. These guidelines (which may be referred to as the "Building Access Guidelines") are issued by the Telecommunications Authority (TA) and are intended for property owners, developers and managers (referred to as the "developers" in the rest of these guidelines) in the public and the private sectors, including developers who are statutory or public corporations like the Housing Authority, Mass Transit Railway Corporation, Kowloon-Canton Railway Corporation and the Provisional Airport Authority.

Purpose of these Guidelines

2. These guidelines are to assist developers in the planning and provision of facilities ("access facilities") within their property developments to a standard which the developers consider desirable for their future customers' need. Although the standard of the facilities to be provided is the decision of the developers, there is a public policy that a minimum standard should be met which enables the occupiers to have unimpeded access to public telecommunications and broadcasting services provided in Hong Kong.

Benefits to Developers and Consumers of Providing Adequate Access Facilities for Public Telecommunications and Broadcasting Services

The Value of the Property is Enhanced

3. If adequate access facilities were not provided, the occupiers of the property might not be able to have unimpeded access to the full range of public telecommunications and broadcasting services and this would degrade the value and attractiveness of the property to potential purchasers and occupiers.

Delays, Disruptions and Inconvenience of Having to Add Access Facilities After Completion of Construction are Avoided

4. Generally it is a less satisfactory arrangement for the access facilities to be provided after the completion of the construction of the property as delays, disruptions and inconvenience (such as disturbance of building finishes, opening up of private roads within the property development) may be involved. In some cases, it may even be physically impossible to add the access facilities (such as equipment accommodation) which have not been incorporated into the original design. The future occupiers would then suffer permanent constraints in their access to public telecommunications and broadcasting services. It is therefore recommended that adequate access facilities be planned and provided during the construction stage of new property developments.

Hong Kong is Moving to a Multi-Network Operator Environment for Public Telecommunications and Broadcasting Services

5. The Government has announced its policy of introducing competition in the provision of local public fixed telecommunication network services. The exclusive franchise for the local public telephone services by wire granted to Hong Kong Telephone Company Limited (HKTC) under the Telephone Ordinance will expire on 30 June 1995. As from 1 July 1995, HKTC will continue to provide public telephone services in Hong Kong on a competitive basis. The Government will license three more operators to operate local fixed telecommunication networks in competition with HKTC. These new operators are named below:

   - Hutchison Communications Limited (HCL)
   - New T & T Hong Kong Limited (NT&T)
   - New World Telephone Limited (NWT)

   The three new operators and HKTC will each be granted a "fixed telecommunication network services (FTNS) licence" under the Telecommunication Ordinance.

6. In addition to the FTNS operators, the Government has already granted a licence to Wharf Cable Limited (WCL) for the operation of subscription television broadcasting services under the Television Ordinance. WCL is given an exclusive right to operate subscription television broadcasting services in Hong Kong until 31 May 1996. Whether additional operators for such services will be licensed after 31 May 1996 will be reviewed by Government.

7. HKTC, HCL, NT&T, NWT and WCL (referred to as the "network operators" in these guidelines) have all been given the "utility" status by the Government. This means that they have the right to install their networks in public streets, unleased land and leased land subject to the necessary approval under the law.

Government Promotes Effective Competition Among the Network Operators to Bring About Benefits to Consumers

8. Effective competition among the four FTNS operators will bring about benefits to the users of telecommunications services. The Government is therefore committed to a policy of ensuring fair competition among the four FTNS operators. Through legislation and licence conditions, the Government will ensure that the four FTNS operators will be treated on a non-discriminatory basis in the access to their customers in property developments.

9. The same policy of fair competition and non-discriminatory access is expected to apply to subscription television broadcasting services if such services are open to competition after 31 May 1996.

Consumers Should Have the Right of Unimpeded Access to Public Telecommunications and Broadcasting Services of Their Choice

10. The occupiers of a property should have non-discriminatory access to the telecommunications and broadcasting services of their choice over the developer's cabling, or over cabling of the network operators installed within the property using the developer's access facilities. The Government intends to review the Telecommunication Ordinance and incorporate suitable provisions to nullify any terms in any lease agreement, deed of mutual covenant or commercial contract that restrict or deprive the right of individual occupiers to access public telecommunications or broadcasting services of their own choice.

Developers Should Provide Access Facilities for Public Telecommunications and Broadcasting Services

11. To enable the occupiers to have direct access to the public telecommunications and broadcasting services in Hong Kong, developers should provide cabling facilities to enable the network operators to install their cables and ancillary equipment to reach their customers in the property. Some developers may choose to provide, in addition to the cabling facilities, cables and ancillary equipment to connect the occupiers of the property to the public telecommunications and broadcasting networks. In these guidelines, cabling facilities and cables and ancillary equipment as collectively known as "access facilities".

Cabling facilities

12. "Cabling facilities" are defined as facilities for the routing, housing, and mounting of cables and ancillary equipment to provide the connections between the public telecommunications and broadcasting networks and the individual premises of the occupiers within the property. These may include -

    - ducts, manholes, trenches and other types of cabling facilities within the boundary of leased land or along private roads,
    - access holes, pipes, conduits, ducts, junction boxes and other types of facilities for cable access into buildings and individual units/premises,
    - risers, ducts, conduits, cable trays, junction boxes and other types of cabling facilities within buildings,
    - accommodation for
        a. cable termination devices (e.g. main distribution frames (MDF)); and
        b. transmission and reception equipment;
        c. and the provision of power supplies, suitable lighting and ventilation,
    - space for the above.

Cables and Ancillary Equipment

13. The cables and ancillary equipment provided by developers provide "through connections" between the "network termination points" of the public networks and the individual premises of the

between the "network termination points" of the public networks and the individual premises of the property. They do not provide aggregation or switching of the telecommunications traffic originating from and/or terminating with the occupiers. The occupiers remain to be the customers of the providers of the public telecommunications and broadcasting services which are delivered to the occupiers through the developer-provided cables and ancillary equipment.

14. Under the Telecommunication Ordinance, a licence is required for the establishment or maintenance of any means of telecommunication. The Government intends to exempt from the licensing requirement any cables and ancillary equipment operated by the developers for the provision of "through connections" for the direct access to public telecommunications and broadcasting services. However, in order to implement the Government policy of ensuring that consumers have direct access to public telecommunications and broadcasting services of their choice and to prevent any anti-competitive practice in the operation of the developer-provided cables and equipment, the exemption will be subject to conditions.

Network Operators have Statutory Right of Access to Install Their Networks within Property Developments to Serve Their Customers

15. The Government has the policy to ensure that the occupiers have direct access to public telecommunications and broadcasting services of their choice. Section 14 of the Telecommunication Ordinance is to implement this policy.

16. Under section 14 of the Telecommunication Ordinance, the TA may authorize a licensee under the Ordinance to place and maintain telecommunication lines in, over or upon any land subject to the conditions stated in that section. The Government policy is to authorize a licensee with "utility" status to have access to the "common parts" of a property to install the cables and equipment necessary for the provision of service to occupiers of the property. "Common parts" means all areas within the property development except those areas which are for the exclusive use, occupation or enjoyment of an occupier.

17. The TA has already authorized WCL to install and maintain telecommunication lines in the common parts of private buildings for the provision of the subscription television broadcasting service. The TA will give similar authorization to the four FTNS operators for the provision of the fixed telecommunication network services after the licences have been issued.

18. The network operators are expected to exercise their statutory right of access reasonably, minimizing disruption and inconvenience to the developers and occupiers during the installation and operation of their networks. They are liable for full compensation for any damage suffered by the developers or occupiers in accordance with section 14(2) of the Telecommunication Ordinance.

Access Facilities Should be Made Available to Network Operators on a Non-Discriminatory Basis

There should be No Exclusive Deals or Restrictive Agreements

21. No access facilities installed and maintained by a developer should be reserved by the developer for the exclusive use of a particular network operator so as to preclude other operators to have access to the occupiers of the property where those access facilities could reasonably be utilized by those other operators.

There Should be no Discriminatory Treatment

22. If a developer decides to provide only cabling facilities within the development, all network operators should be allowed access to the cabling facilities for the installation of their cables and equipment to respond to the demand of their customers in the property.
23. If a developer also provides cables and ancillary equipment, all network operators should have access to the cables and ancillary equipment to provide services to the occupiers.

There Should be no Access Charge for Cabling Facilities

24. Under the current legislation, the developers are not entitled to impose an access charge on the network operators for the use of the cabling facilities already provided as part of the property, or for the space for the installation of such cabling facilities, for the installation of cables and equipment which are reasonably necessary for the provision of service to occupiers within the property and some incidental functions. In practice, the costs for the provision of such cabling facilities are expected to be passed on to the purchasers or occupiers of the property in a similar manner as facilities for other utility services (i.e. electricity, water and gas) are provided. The Government considers that this approach is appropriate given the benefits the occupiers of the property, rather than the other consumers outside the property, derive from the use of the cabling facilities within that particular property, and accordingly, the Government will maintain this approach in the new multi-operator environment.

Access Should be Granted for Rollout of Networks

25. Although the three new FTNS operators (see paragraph 5) are not expected to commence service until July 1995, they need to plan and install their networks outside and within property developments well before the service commencement date. The access facilities provided in accordance with these guidelines should therefore be made available to the three new operators as well as the other two existing ones as and when such facilities become available.

Cables and Ancillary Equipment Operated by Developers should be Interconnected with Public Networks on a Non-Discriminatory Basis

26. The cables and ancillary equipment operated by developers should be open for interconnection with the public networks on a non-discriminatory basis so that occupiers of the property can have access to the public telecommunications and broadcasting services of their choice. Under section 36A of the Telecommunication Ordinance, the TA has powers to determine the terms and conditions, including technical and financial terms and conditions, for the interconnection between any cables and ancillary equipment operated by the developers and the public telecommunications and broadcasting networks outside the property.

27. The terms and conditions for the interconnection with cables and ancillary equipment provided by the developers should first be negotiated between the network operators and the developers. If a commercial agreement cannot be reached within a reasonable period, the TA may make a determination of the terms and conditions of the interconnection under section 36A of the Telecommunication Ordinance. If the TA is called upon to make a determination under section 36A of the Telecommunication Ordinance, he will determine the financial terms based on the recovery of all relevant costs (including an appropriate cost of capital) attributable to the interconnection.

28. For the reason stated in paragraph 24, developers are encouraged to adopt the same arrangement as for cabling facilities and pass the costs for the provision of cables and ancillary equipment on to the purchasers or occupiers of the property in a similar manner as facilities for other utility services (i.e. electricity, water and gas) are provided.

The Developers Should Consult and Coordinate with the Network Operators in the Provision of Access Facilities

Planning Adequate Access Facilities

29. The access facilities should meet certain technical standards in terms of size, capacity, technical parameters, quality and safety standards. Compliance with these technical standards will be one of the conditions for the supply of the public telecommunications and broadcasting services to the property.

30. The TA will develop and promulgate a code of practice to establish the technical standards for the access facilities in consultation with the industry. This code of practice will specify as a design requirement for new buildings certain minimum requirements for access facilities within each new building, which will be related to the size of the building and the anticipated number of occupiers which will need to be served by the network operators. While these design requirements should be sufficient in most building environments, the special character of a particular development may require more or different access facilities, and accordingly there should be a process for consultation between the developer and the network operators for each new development.

Coordination for New Buildings

31. As part of the planning of a property development, the developer should notify all network operators of the development and ask the operators to provide their requirements for access facilities. The developer should provide copies of the relevant plans or drawings to the network operators as appropriate. The network operators will coordinate the requirements among themselves and provide the developer with the consolidated requirements for the access facilities. The developers should discuss and agree with the network operators the requirements for access facilities and then incorporate the requirements into the design.

32. If agreement on access facilities cannot be reached on a commercial basis after a reasonable period of active negotiation, the parties involved may seek the assistance of OFTA.

33. As stated in paragraphs 15 to 18, the network operators have statutory right of access. Therefore if developer-provided access facilities prove inadequate, the network operators may exercise their statutory right of access to install their own cabling facilities, cables and ancillary equipment directly to the customers thereby bypassing the developer-provided cables and ancillary equipment.

Coordination for Existing Buildings

Coordination for Existing Buildings

34. All network operators have a non-discriminatory right of access to existing cabling facilities in a property and any cables and ancillary equipment owned or operated by the developer. The owners or managers of existing buildings should, where practicable, allow all network operators to have access to existing access facilities of the property on a non-discriminatory basis.

35. Should the existing access facilities be inadequate to meet the requirements of the network operators, upon receipt of any request from network operators for the installation of additional access facilities, the owners or managers should consider whether similar requests from other network operators could be entertained in the future. If there are constraints with allowing other network operators to have separate access facilities, the owners or managers should ask the requesting network operator to coordinate its requirements with the other network operators. In case of difficulty, the assistance of the OFTA may be sought.

36. Under section 14 of the Telecommunication Ordinance, the owners, developers or managers of existing buildings are not entitled to charge for the space to be provided for the additional access facilities. If the access facilities provided by the owners, developers or managers are not adequate to serve the occupiers in the building, the network operators may also install their own access facilities in exercise of their right of access under section 14 of the Telecommunication Ordinance. The network operators are required to compensate the landowners for any damage caused in the installation or operation of the access facilities.

Enquiries and Contacts

37. The TA, supported by the Office of the Telecommunications Authority (OFTA), is responsible for the regulation of telecommunications services and implementation of the telecommunications policy explained later in these guidelines. Any question concerning these guidelines may be directed to:

    Telecommunications Engineer (Advisory and Support)
    Office of the Telecommunications Authority
    29/F Wu Chung House
    213, Queen's Road East
    Wanchai, Hong Kong

38. The contacts in the network operators concerning access facilities are given in Annex 3.

18 May 1995

To Annex

Footnote

1. The TA has powers under the FTNS licences to take action against a network operator where an operator gives an undue preference to, or receives an unfair advantage from an associated or affiliated company if that places a competitor at a significant competitive disadvantage or substantially lessens competition. A developer which is an associated or affiliated company of an operator should be aware of this obligation of the FTNS operators in their d ealings with them.

2. For example, the developers may provide in-building wiring to connect individual premises to the public telephone networks. It is also a common practice for developers to install a "Communal Antenna Broadcast Distribution (CABD) system" to distribute television and radio signals to individual premises. Such a system, if meeting certain specifications, may also be used for connection of the individual premises to the subscription television broadcasting network.

3. The "network termination point" is the point of demarcation between the relevant public network and the customers' equipment or the developer-operated cables and ancillary equipment.

   There are three possible modes for the operation of the cables and equipment provided by the developer:

   a. The network operators take over the responsibility for the operation of the cables and equipment and operate them as part of the public networks.

   b. The developer hands over responsibility for the cables and equipment to the occupiers and such cables and equipment will become part of the customers' equipment directly connected to the public networks.

   c. The developer continues to operate the cables and equipment as part of the amenities of the property development.

   The location of the "network termination point" is to be decided by agreement between the developer and the network operators. Depending on the mode of operation, it can be a network termination device within the occupier's premises, or the MDF or other similar cable marshalling point close to the property boundary, or some intermediate point in between. The TA may issue guidelines under section 36A of the Telecommunication Ordinance on the determination of the "network termination point" and may determine under section 36A the location of the "network termination point" as part of the terms and conditions of interconnection agreement.

   Cables and ancillary equipment operated by developers have a direct bearing on the quality of the services provided to the occupiers through these cables and ancillary equipment. Where the "network termination point" agreed between the developer and the network operator is such that the developer continues to operate the cables and ancillary equipment between the "network termination point" and the occupiers, the developer is responsible for the maintenance of the cables and ancillary equipment to the required technical standard.

4. The cables and ancillary equipment operated by the developer should provide "one-to-one" paths of the required technical characteristics for the delivery of the public telecommunications and broadcasting services from the "network termination point" to the occupiers as if the same paths were provided over the network operators' own cabling. The provision of facilities for the aggregation or switching of public telecommunications traffic is outside the scope of these guidelines.

   As a matter of policy, the Government has decided not to invite further fixed telecommunication network services (FTNS) licence applications for at least three years from the issue of the first batch of licences mentioned in paragraph 5. This is to allow the new licensees to make their substantial commitments to invest in switching and infrastructure contained in their licences. Therefore as a general rule, the TA will not consider proposals from developers for the provision of public telecommunications services through the aggregation or switching of telecommunications traffic within property developments for at least three years. Any exemption to this rule would be expected to be extremely limited and would need to meet substantial "public interest" tests.

5. The conditions will include limitation on the scope of the cables and ancillary equipment (for example, the cables may not cross the property boundary), the absence of switching or aggregation of traffic of the occupiers, compliance with technical code of practice, non-discriminatory access to

public telecommunications and broadcasting services, prohibition of anti-competitive behaviour, etc. Failure to comply with these conditions is tantamount to a breach of the Telecommunication Ordinance and is subject to the sanctions under that Ordinance.

6. The authorization by the TA under section 14 of the Telecommunication Ordinance will permit the installation, operation and maintenance by a network operator of

   a. telecommunication lines (lines for the delivery of broadcasting services are also "telecommunication lines" as defined in the Telecommunication Ordinance);

   b. ancillary equipment to the telecommunication lines or directly associated with the service provided over the lines (this includes any radio or wireless local loop equipment required to connect the occupiers in the property to the public telecommunications or broadcasting networks); and

   c. facilities falling within the scope of "cabling facilities" where such facilities are incidental or necessary to the installation of the telecommunication lines of the network operators.

7. In the case of buildings within the meaning of the Building Management Ordinance, a list of the "common parts" is given in the First Schedule to that Ordinance.

8. Where a developer decides to retain responsibility for or hands over responsibility to the occupiers for, cable and equipment, the developer or occupiers, as the case may be, may engage a third party, including an operator to manage the cable and equipment, including in relation to dealings with the operators on capacity allocation, maintenance and other issues. Any such arrangements, including where the contracting party is an operator, must respect the primary requirement for non-discriminatory access for the operators.

9. "Code of Practice for Access Facilities of Buildings for the Provision of Telecommunications and Broadcasting Services" to be issued by the Office of the Telecommunications Authority.

Office of the Telecommunications Authority

Statement by
The Telecommunications Authority of Hong Kong

"Building Access Guidelines"

18 May 1995

- **Attachment:**
  Guidelines for Property Owners, Developers and Managers for the Provision of Facilities within Property Developments for Access to Public Telecommunications and Broadcasting Services

1. The local public telephone service by wire in Hong Kong has been provided by Hong Kong Telephone Company Limited (HKTC) under an exclusive concession under the Telephone Ordinance. As a result of this exclusive concession, HKTC has been operating the only local fixed telecommunications network in Hong Kong. This exclusive concession will expire on 30 June 1995.

2. The Government has decided that the local fixed network sector should be opened to competition. As from 1 July 1995, HKTC will provide its services under a non-exclusive licence. Three other operators (namely, New World Telephone Limited, New T & T Hong Kong Limited and Hutchison Communications Limited) will be licensed to operate fixed network services in competition with HKTC. The four fixed network operators will be granted a Fixed Telecommunication Network Services (FTNS) Licence under the Telecommunication Ordinance.

3. In addition to the four FTNS licensees, since November 1993, Wharf Cable Limited has been operating a network providing subscription television broadcasting services in Hong Kong.

4. It is the Government's policy that all consumers in Hong Kong should have unimpeded access to the full range of public telecommunications and broadcasting services of their choice. All network operators have been granted the "utility" status and they will be authorized under the Telecommunication Ordinance to install and maintain their networks in, over or upon any land, including the "common parts" of buildings in private properties.

5. It is in the mutual interests of the property developers and the network operators for adequate facilities (cable ducts, risers, equipment rooms, etc.) to be provided to enable the occupiers in the property developments to access the full range of public telecommunications and broadcasting services. Lack of adquate access facilities will certainly degrade the value and attractiveness of the property to potential purchasers and occupiers. The addition of access facilities after the completion of the construction phase will result in delays, disruptions and inconvenience. In some cases, it is physically impossible to add the access facilities after the construction is completed.

6. Up to the present, property developers have been providing access facilities only for HKTC and the subscription television network. As from 1 July 1995, there will be a multi-operator environment for the local fixed networks in Hong Kong. there should be fair and effective competition among the network operators The facilities provided by developers should be available for access by all network operators on a non-discriminatory basis.

7. Until 30 June 1995, only HKTC may provide cables within private property for the public telephone service because of the exclusive concession under the Telephone Ordinance. In the new competitive environment, the developers may also provide and operate cables and ancillary equipment within their property development provided that all network operators are given access to the cables on a non-discriminatory basis. Such developer-provided cables are to provide "straight-through" connections for direct access to the public telecommunications and broadcasting services. It is not intended to license developers to aggregate traffic, install switching facilities or otherwise engage in resale activities themselves.

8. To explain the Government's policies and legislation on how to provide access to the telecommunications and broadcasting networks in the new multi-operator environment as from 1 July 1995, the Telecommunications Authority has issued the attached Guidelines (which may be referred to as the "Building Access Guidelines") to property owners, developers and managers.

9. Any enquiries or comments from the property owners, developers and managers on the Guidelines will be welcomed and should be addressed to:

Telecommunications Engineer (Advisory and Support)
Office of the Telecommunications Authority
29/F, Wu Chung House,
213, Queen's Road East,
Wanchai,
Hong Kong.

Telephone: 2961 6632
Facsimile: 2803 5113

18 May 1995

CONNECTICUT GENERAL STATUTES ANNOTATED
TITLE 16. PUBLIC SERVICE COMPANIES
CHAPTER 283. DEPARTMENT OF PUBLIC UTILITY CONTROL: TELEGRAPH, TELEPHONE, ILLUMINATING, POWER AND WATER COMPANIES

Current through Gen. St., Rev. to 1-1-97

§ 16-247l. Occupied buildings and access to telecommunications providers: Service, wiring, compensation, regulations, civil penalty

(a) As used in this section:

(1) "Occupied building" means a building or a part of a building which is rented, leased, hired out, arranged or designed to be occupied, or is occupied (A) as the home or residence of three or more families living independently of each other, (B) as the place of business of three or more persons, firms or corporations conducting business independently of each other, or (C) by any combination of such families and such persons, firms or corporations totaling three or more, and includes trailer parks, mobile manufactured home parks, nursing homes, hospitals and condominium associations.

(2) "Telecommunications provider" means a person, firm or corporation certified to provide intrastate telecommunications services pursuant to sections 16-247f to 16-247h, inclusive.

(b) No owner of an occupied building shall demand or accept payment, in any form, except as provided in subsection (f) of this section, in exchange for permitting a telecommunications provider on or within his property or premises, or discriminate in rental charges or the provision of service between tenants who receive such service and those who do not, or those who receive such service from different providers, provided such owner shall not be required to bear any cost for the installation or provision of such service.

(c) An owner of an occupied building shall permit wiring to provide telecommunications service by a telecommunications provider in such building provided: (1) A tenant of such building requests services from that telecommunications provider; (2) the entire cost of such wiring is assumed by that telecommunications provider; (3) the telecommunications provider indemnifies and holds harmless the owner for any damages caused by such wiring; and (4) the telecommunications provider complies with all rules and regulations of the Department of Public Utility Control pertaining to such wiring. The department shall adopt regulations, in accordance with the provisions of chapter 54, [FN1] which shall set forth terms which may be included, and terms which shall not be included, in any contract to be entered into by an owner of an occupied building and a telecommunications provider concerning such wiring. No telecommunications provider shall present to an owner of an occupied building for review or for signature such a contract which contains a term prohibited from inclusion in such a contract by regulations adopted hereunder. The owner of an occupied building may require such wiring to be installed when the owner is present and may approve or deny the location at which such wiring enters such building.

(d) Prior to completion of construction of an occupied building, an owner of such a building in the process of construction shall permit prewiring to provide telecommunications services in such building provided that: (1) The telecommunications provider complies with all the provisions of subdivisions (2), (3) and (4) of subsection (c) of this section and subsection (f) of this section; and (2) all wiring other than that to be directly connected to the equipment of a telecommunications service

customer shall be concealed within the walls of such building.

(e) No telecommunications provider may enter into any agreement with the owner or lessee of, or person controlling or managing, an occupied building serviced by such provider, or commit or permit any act, that would have the effect, directly or indirectly, of diminishing or interfering with existing rights of any tenant or other occupant of such building to use or avail himself of the services of other telecommunications providers.

(f) The department shall adopt regulations in accordance with the provisions of chapter 54 authorizing telecommunications providers, upon application by the owner of an occupied building and approval by the department, to reasonably compensate the owner for any taking of property associated with the installation of wiring and ancillary facilities for the provision of telecommunications service. The regulations may include, without limitation:

(1) Establishment of a procedure under which owners may petition the department for additional compensation;

(2) Authorization for owners and telecommunications providers to negotiate settlement agreements regarding the amount of such compensation, which agreements shall be subject to the department's approval;

(3) Establishment of criteria for determining any additional compensation that may be due;

(4) Establishment of a schedule or schedules of such compensation under specified circumstances; and

(5) Establishment of application fees, or a schedule of fees, for applications under this subsection.

(g) Nothing in subsection (f) of this section shall preclude a telecommunications provider from installing telecommunications equipment or facilities in an occupied building prior to the department's determination of reasonable compensation.

(h) Any determination by the department under subsection (f) regarding the amount of compensation to which an owner is entitled or approval of a settlement agreement may be appealed by an aggrieved party in accordance with the provisions of section 4-183.

(i) Any person, firm or corporation which the Department of Public Utility Control determines, after notice and opportunity for a hearing as provided in section 16-41, has failed to comply with any provision of subsections (b) to (e), inclusive, of this section shall pay to the state a civil penalty of not more than one thousand dollars for each day following the issuance of a final order by the department pursuant to section 16-41 that the person, firm or corporation fails to comply with said subsections.

CREDIT(S)

1997 Electronic Pocket Part Update

(1994, P.A. 94-106, § 1.)

[FN1] C.G.S.A. § 4-166 et seq.

C. G. S. A. § 16-247l

9TH DOCUMENT of Level 1 printed in FULL format.

THE STATE OF TEXAS
BILL TEXT
STATENET

TEXAS 75TH LEGISLATURE -- REGULAR SESSION

SENATE BILL 1751

BILL NUMBER: TX75RSB 1751 DATE: 5/21/97
ENROLLED

1997 TX S.B. 1751

VERSION: Enacted

VERSION-DATE: May 21, 1997

SYNOPSIS:

AN ACT

relating to the adoption of a nonsubstantive revision of statutes relating to utilities, including conforming amendments, repeals, and penalties.

NOTICE:
[A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED <A]

TEXT: BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. ADOPTION OF CODE. The Utilities Code is adopted to read as follows:

UTILITIES CODE

TITLE 1.. GENERAL PROVISIONS CHAPTER 1. GENERAL PROVISIONS

(Chapters 2-10 reserved for expansion)

TITLE 2. PUBLIC UTILITY REGULATORY ACT

SUBTITLE A. PROVISIONS APPLICABLE TO ALL UTILITIES CHAPTER 11. GENERAL PROVISIONS

CHAPTER 12. ORGANIZATION OF COMMISSION

CHAPTER 13. OFFICE OF PUBLIC UTILITY COUNCIL

CHAPTER 14. JURISDICTION AND POWERS OF COMMISSION AND OTHER REGULATORY AUTHORITIES

CHAPTER 15. JUDICIAL REVIEW, ENFORCEMENT, AND PENALTIES

more maps that show each utility facility and that separately illustrate each utility facility for transmission or distribution of the utility's services on a date the commission orders. (V.A.C.S. Art. 1446c-0, Sec. 3.253(b).)

Sec. 54.259. DISCRIMINATION BY PROPERTY OWNER PROHIBITED.

(a) If a telecommunications utility holds a consent, franchise, or permit as determined to be the appropriate grants of authority by the municipality and holds a certificate if required by this title, a public or private property owner may not:

(1) prevent the utility from installing on the owner's property a telecommunications service facility a tenant requests;

(2) interfere with the utility's installation on the owner's property of a telecommunications service facility a tenant requests;

(3) discriminate against such a utility regarding installation, terms, or compensation of a telecommunications service facility to a tenant on the owner's property;

(4) demand or accept an unreasonable payment of any kind from a tenant or the utility for allowing the utility on or in the owner's property; or

(5) discriminate in favor of or against a tenant in any manner, including rental charge discrimination, because of the utility from which the tenant receives a telecommunications service.

(b) Subsection (a) does not apply to an institution of higher education. In this subsection, "institution of higher education" means:

(1) an institution of higher education as defined by Section 61.003, Education Code; or

(2) a private or independent institution of higher education as defined by Section 61.003, Education Code.

(c) Notwithstanding any other law, the commission has the jurisdiction to enforce this section. (V.A.C.S. Art. 1446c-0, Secs. 3.2555(c), (e), (g).)

Sec. 54.260. PROPERTY OWNER'S CONDITIONS.

(a) Notwithstanding Section 54.259, if a telecommunications utility holds a municipal consent, franchise, or permit as determined to be the appropriate grant of authority by the municipality and holds a certificate if required by this title, a public or private property owner may:

(1) impose a condition on the utility that is reasonably necessary to protect:

(A) the safety, security, appearance, and condition of the property; and

(B) the safety and convenience of other persons;

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(2) impose a reasonable limitation on the time at which the utility may have access to the property to install a telecommunications service facility;

(3) impose a reasonable limitation on the number of such utilities that have access to the owner's property, if the owner can demonstrate a space constraint that requires the limitation;

(4) require the utility to agree to indemnify the owner for damage caused installing, operating, or removing a facility;

(5) require the tenant or the utility to bear the entire cost of installing, operating, or removing a facility; and

(6) require the utility to pay compensation that is reasonable and nondiscriminatory among such telecommunications utilities.

(b) Notwithstanding any other law, the commission has the jurisdiction to enforce this section. (V.A.C.S. Art. 1446c-0, Secs. 3.2555(d), (e).)

Sec. 54.261. SHARED TENANT SERVICES CONTRACT. Sections 54.259 and 54.260 do not require a public or private property owner to enter into a contract with a telecommunications utility to provide shared tenant services on a property. (V.A.C.S. Art. 1446c-0, Sec. 3.2555(i).)

CHAPTER 55. REGULATION OF TELECOMMUNICATIONS SERVICES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 55.001. GENERAL STANDARD

Sec. 55.002. COMMISSION AUTHORITY CONCERNING STANDARDS

Sec. 55.003. RULE OR STANDARD

Sec. 55.004. LOCAL EXCHANGE COMPANY RULE OR PRACTICE CHANGE

Sec. 55.005. UNREASONABLE PREFERENCE OR PREJUDICE CONCERNING SERVICE PROHIBITED

Sec. 55.006. DISCRIMINATION AND RESTRICTION ON COMPETITION

Sec. 55.007. MINIMUM SERVICES

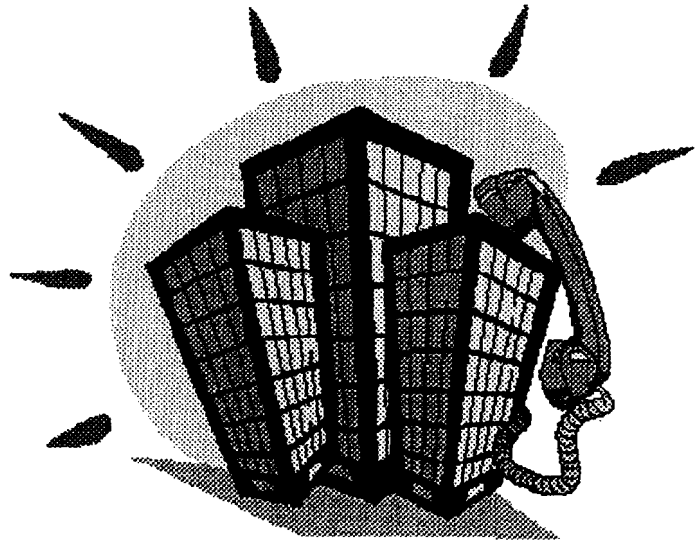
Sec. 55.008. IMPROVEMENTS IN SERVICE; INTERCONNECTING SERVICE

Sec. 55.009. INTRALATA CALLS

Sec. 55.010. BILLING FOR SERVICE TO THE STATE (Sections 55.011-55.020 reserved for expansion)

Canadian Radio-television and Telecommunications Commission
Conseil de la radiodiffusion et des télécommunications canadiennes

"CODE OF CONDUCT" FOR BUILDING ACCESS



Implementing Local Telephone Competition

Canada

"CODE OF CONDUCT" FOR BUILDING ACCESS

IMPLEMENTING LOCAL COMPETITION

The following *Code of Conduct* is the result of efforts by the Building Access and Inside Wire Working Group (BIWG) to address issues that may arise where a local exchange carrier (LEC) that provides local telephone service, is denied access to a multi-unit building to serve its customers. The *Code of Conduct* includes a course of action designed to make it easier for LECs to access customers. The BIWG, a sub group of the CRTC's Interconnection Steering Committee, created to facilitate competition, is composed of LECs, owners of multi-unit buildings, consumer groups and other interested parties.

Access is defined to include access to a trench or conduit outside the building, and conduit, plenum space, raceways, walls, riser corridors, closets, meter room, etc., inside the building.

Code of Conduct Guidelines – Part 1

The following guidelines are intended to provide a foundation on which a cooperative relationship can be built between LECs which are Canadian Carriers and building owners.

All facility providers, acting as, or on behalf of, Canadian Carriers or building owners should, where applicable;

- ensure that the installation of the facilities is technically feasible, this includes equipment space, power, and pathway space.
- comply with all relevant Canadian Radio-television and Telecommunications Commission (CRTC) rulings.
- comply with all applicable Federal, Provincial, and Municipal regulations regarding the construction and operation of all telecommunications facilities, including building, fire, and electrical codes.
- commit to the adoption of transmission, installation, administration, and design specifications for in-building telecommunications and related facilities as provided in all appropriate industry standards.
- ensure that installation practices reasonably minimize the impact on the tenants of the building.
- comply with on-site operational building management regulations.

Code of Conduct Escalation Process – Part 2

This escalation process may be employed when a Canadian Carrier, or its facility provider, believes that it

is being unjustly discriminated against by a building owner. The steps are ranked in the order that the SWG recommends they be executed.

1. Canadian Carrier informs building owner of the end-user's choice of LEC in accordance with CRTC Telecom Decision 97-8, *Local Competition,* 1 May 1997.

2. Canadian Carrier may, where appropriate, request end-user exert influence on the building owner to allow the end-user the right to select the LEC of its choice.

3. Canadian Carrier may petition the Building Owners and Managers Association Canada *(BOMA)* and the Canadian Institute of Public Real Estate Companies *(CIPREC)* to send a letter to the building owner indicating *their* consensus with the SWG meetings, as well as *BOMA/CIPREC* published position that LECs be treated in a non-discriminatory manner.
4. Canadian Carrier may file a complaint with the CRTC.

PARTICIPANTS:

Participants in the development of the Code of Conduct include:

Building Owners and Managers Association Canada
MetroNet
Rogers Network Services
Call-Net/Sprint
Stentor Resource Centre Inc.
BCTel
Telus
MTS
Bell Canada
Shaw FiberLink
Videotron Telecom
AT&T LDS
Rogers Cablesystems
GroupTelecom
Canadian Institute of Public Real Estate Companies

français

BEFORE
OFFICE OF THE TELECOMMUNICATIONS AUTHORITY
HONG KONG SPECIAL ADMINISTRATIVE REGION

In response to:

Broadband Interconnection -
An Industry Consultation Paper issued by the
Office of the Telecommunications Authority

Comments of HKNet - Teligent Company Limited

HKNet - Teligent Co. Limited ("HKNet-Teligent" or "the Company"), respectfully submits these comments in the above-captioned Consultation. HKNet-Teligent's proposal for a Fixed Wireless FTNS Licence was accepted on 18 January 2000. The Company is grateful for the opportunity to contribute to the establishment of additional policies encouraging broadband competition.

Introduction

HKNet-Teligent applauds OFTA for exploring options that would fortify the Company's commitment to bringing Hong Kong consumers competitive, facilities-based voice and data services on a wider scale. Indeed, through a combination of its own wireless network deployment, and the opportunity to leverage that investment by taking advantage of ready access to building wiring and interconnection, HKNet-Teligent will be well poised to offer an alternative broadband product. HKNet-Teligent supports an economically efficient process for allowing access to existing wireline facilities; to this end, it advocates streamlined negotiation and provisioning procedures and forward-looking cost-based rates. Further, HKNet-Teligent will be able to connect disparate portions of its network if granted frequency spectrum for microwave back haul. Finally, while interoperability and

network compatibility should be a concern, Teligent respectfully submits that OFTA should be hesitant to bear the burden of supervising extensive technological requirements. OFTA might instead allow market forces to determine what constitutes a valid network architecture.

HKNET-Teligent hereby provides its brief comments on (i) access to building wiring, cabling, and other spaces; (ii) effective procedures and schedules for interconnection, provisioning, and collocation; (ii) costs of associated network elements and functions; (iv) technology standards and network compatibility; and (v) back haul spectrum.

I. Access to Building Wiring, Cabling, and Other Facilities and Spaces Should Be Nondiscriminatory and Allow Maximum Choices for Hong Kong Consumers

As an authorized Hong Kong broadband wireless carrier, HKNet - Teligent strongly supports OFTA's preliminary conclusion that "certain transmission facilities . . . constitute bottlenecks in the near term in the delivery of services to end users," and that as a result, there is "a need to formulate the basic ground rules for the regulation of broadband interconnection . . . ."[1] In an area as densely populated as Hong Kong, the ability to access end users in multi-tenant environments ("MTEs") is essential for the development of competition in the provision of broadband services.

In proposing arguments in support of access to in-building wiring, OFTA correctly notes that "it is not in the public interest for the operators of in-building wiring systems to act as 'gatekeepers' . . . between the users and the . . . services outside the buildings."[2] Where one entity controls many

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[1] *See* Broadband Interconnection – an Industry Consultation Paper Issued by the Office of the Telecommunications Authority, 3 November 1999, at ¶ 5.4, p. 11 (hereinafter "*Broadband Paper*").

[2] *Id.*, ¶ 5.2(c), p. 10.

buildings, discriminatory practices can represent a lack of competitive services for thousands of individuals. Thus, MTE communications infrastructure can represent a bottleneck requiring OFTA regulation to ensure that all Hong Kong citizens have a choice of advanced broadband services at competitive prices.

As OFTA recognises, in order for MTE end users to obtain competitive services, broadband wireless carriers require access to a variety of building facilities.[3] First, to reach individual MTE customers, carriers must have access to any inside wiring and riser cable supporting broadband services, including CAT 5 and coaxial cable, fiber optics, and digital subscriber lines or other advanced copper wiring. Second, competitive carriers require unbundled access to the network interface device ("NID"), which is typically located in the basement or ground floor of multi-tenant buildings and connects to a building's inside wire and riser cables. Carriers also require the ability to share conduit and collocation space, air conditioning, and power available to incumbent carriers. Third, wireless broadband carriers also require rooftop access to install radio antennas, as well as conduit space to connect such facilities with inside wiring. In addition, access to each of these types of building infrastructure should be provided on a fair, non-discriminatory basis, with access fees charged on a tariffed basis.

A. OFTA Should Mandate Non-Discriminatory Access to All In-Building Wiring Supporting Broadband Services

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[3] Licensing of Local Fixed Telecommunication Network Services by Wireless Transmission, External Fixed Telecommunication Network Services by Satellites and the Hong Kong Cable Television Limited to Provide Telecommunications Services, Legislative Council Brief, Information Technology and Broadcasting Bureau, 18 January 2000, ¶ 6, p. 2.

HKNet-Teligent agrees with OFTA's suggestion that coaxial and CAT 5 cables, upgraded copper wiring, and fiber optic facilities alike "constitute 'bottleneck' facilities in the provision of access to end users in buildings."[4] Inside wiring and riser cables connect the NID to individual tenants, allowing carriers to provide their services directly to tenants in accordance with their specifications. The Company respectfully submits that access to all forms of broadband-capable in-building wiring, on a non-discriminatory basis, is critical for the development of broadband services competition. In addition, OFTA should consider establishing standards for newly installed inside wiring to ensure advanced technology capability in new or upgraded building construction.

B. OFTA Should Mandate Non-Discriminatory Access to In-Building Infrastructure Supporting Broadband Services

To provide their services within MTEs, competitive providers also require access to the NID, which connects carriers' networks to inside wiring and riser cables. In addition, to the extent that incumbent carriers have access to conduits, collocation space, air conditioning, and power to support their services to MTE end users, competitive carriers should also be able to obtain access to such in-building infrastructure.

Infrastructure space should be apportioned among competitive carriers on a fair, non-discriminatory basis. If building owners do not charge rent or other fees to dominant incumbent carriers for use of such infrastructure, competitive carriers should not be required to pay such fees. To the extent that fees are charged to all carriers (incumbents and competitive carriers alike), such fees should be assessed on a non-discriminatory, tariffed basis. Toward this end, the Company

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[4] *Broadband Paper*, ¶ 5.2, p. 9

supports extension of OFTA's 18 May, 1999, Building Access Guidelines to include wireless FTNS operators.

C. OFTA Should Mandate Non-Discriminatory Roof-Top Access

HKNet-Teligent intends to deploy a broadband wireless network in Hong Kong pursuant to authority recently issued by OFTA. A key component of such networks are radio antennas and accompanying transmit and receive equipment, which are generally installed on building rooftops in densely populated areas. In addition to roof space, wireless carriers also require access to conduit space for the installation of trunking between their rooftop radio facilities and inside wiring; often, existing rooftop wiring is inadequate to support such connections. As with all in-building access, OFTA should ensure that rooftop space is made available on a non-discriminatory basis at fair and reasonable rates.

II. Interconnection and Procedures for Provisioning Will Ensure that Competitors Can Begin Using Their Newly-Deployed Network Facilities Quickly

Fixed wireless network providers such as HKNet-Teligent can ensure that they will reach as many end-users as possible if there are maximum interconnection possibilities for new entrants and minimal opportunities for dominant incumbents (who control bottleneck facilities) to introduce obstacles to implementing cooperative arrangements. Collocation space on CWHKT premises should also be encouraged as an efficient means to promote broadband deployment. HKNet-Teligent believes that OFTA should adopt clear guidelines so that competitors do not needlessly argue about interconnection and provisioning obligations. Such guidelines should emulate the "best practises" that already exist among Hong Kong carriers and be memorialised in a framework of mandated scheduling and automatic dispute resolution.

A. Interconnection Will Bolster Competition

HKNet-Teligent supports Type I and certain Type II interconnection among carriers. For Type I, the Company seeks to exchange traffic on Hong Kong's core backbone network, port numbers, and establish CWHKT points of network interconnection wherever technically feasible. There are a variety of circumstances under which HKNet-Teligent believes that interconnection to "access" networks should be allowed as well. In addition to full building wiring access (discussed in Section I, above), access to other loop and cable infrastructure (and flexible collocation space in CWHKT premises necessary for such access) will ensure that competitors can viably enter the market.

Certainly competitors in Hong Kong have demonstrated that they can provision much of their own networks, including switching and other functions. However, for competitors to replicate the vast network of local loops--and thereby have the ability to reach all customers--would be impractical. Access to loops would enable competitors to access customers while building new network infrastructure, and extend coverage of self-provisioned networks as customer bases and service offerings permit. Thus, contrary to the proposition against regulation articulated in the *Broadband Paper*,[5] the availability of loops does not represent an alternative to construction. Instead, it can improve a competitor's ability to enter the market with sufficient strength to make a competitive difference.[6]

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[5] *Id.* at ¶ 5.3(b), p. 10-11.

[6] In addition, limited use of resale by FTNS licensees should be permitted on a temporary basis to encourage rapid market entry while interconnection negotiations are ongoing.

B. OFTA Should Help Ensure that Parties Cooperate in Interconnection Negotiations and Provisioning Network Elements and Collocation Space

OFTA should bolster the interconnection regime with a mandated, reasonable period for parties to reach an agreement. After all, an incumbent with significant market power, as a rational economic actor, cannot be expected to cooperate in commercial negotiations when by fully cooperating, that incumbent faces the certain risk of losing customers in downstream markets. OFTA has recognized that regulatory guidelines and intervention can assist parties in completing interconnection agreements.[7] Thus, HKNet-Teligent supports a dispute resolution regime whereby the regulator or another body will arbitrate outstanding issues and the entire negotiation and resolution process will be complete within a previously-specified time. Such rights will ensure that disputes are resolved fairly and uniformly for all.

Based on the interconnection negotiation experiences of competitive carriers in Europe and the United States, HKNet-Teligent proposes the following regulatory timeframes for interconnection negotiations: A letter from the competitive carrier to the incumbent would initiate the process. Within ten days of receiving a letter requesting interconnection, the incumbent carrier would be required to acknowledge the receipt of the letter and commencement of the interconnection process. Thereafter, the parties would negotiate the terms of interconnection. 60 days from receipt of the interconnection request, either party could obtain regulatory intervention from OFTA upon request. The incumbent carrier would be required to respond to a request for OFTA intervention with 15 days of the filing of such a request. Thereafter, the regulator would be required to resolve the dispute within 60 days of the request for intervention (or 120 days from the incumbent's receipt of the initial

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[7] *Id.* at ¶ 8.2, p. 21.

interconnection request). In addition, in order to facilitate voluntary negotiations, regulatory intervention should not occur without the request of a party, and the parties would be able to alter the regulatory deadline for requesting intervention by mutual consent. Sanctions should be imposed on parties that fail to abide by the results of the interconnection arbitration process.

Finally, concrete time limits for provisioning should be created to serve as a benchmark of incumbent compliance with OFTA's rules. In particular, a carrier in control of loop infrastructure should be required to provide information about the availability and condition of loops (*i.e.* for broadband services), firm order commitments and confirmation, and testing, all within specified times. As for collocation space, OFTA should implement rules that address claims of space unavailability. Guidelines for conditioning charges, security and allowing reasonable measures for shared space should also be considered.

III. OFTA Should Adopt an Incremental, Forward-Looking Cost Model for Broadband Interconnection

In selecting a cost model, OFTA should base its analysis on the incremental, or marginal, costs rather than historical, or embedded, costs. In particular, a Long Run Incremental Cost ("LRIC") model prices interconnection elements to compensate the incumbent for the costs incurred in providing continuing interconnection services to entrants, but does not force new entrants to bear the costs associated with historical network deployment (already financed by a captive base of ratepayers) and continuing inefficiencies of the incumbent's network architecture.[8] In the Broadband

[8] By definition, the incumbent's network will be based on an inefficient monopolist paradigm. Under economic theory, a monopolist will not charge incremental prices, but rather will seek to charge prices far in excess of the true marginal costs. While rate regulation can reduce this economic inefficiency, regulation alone cannot replace the market forces that force

Paper, the Authority comments favorably on a model based on Long Run Average Incremental Costs (LRAIC).[9] Such a model comports with the principles that HKNet-Teligent advocates, insofar as "average" pricing refers to forward-looking costs, rather than the historical average of the incumbent's claimed costs. To adopt another model would create market inefficiencies that will harm competition.

The use of a LRIC model will encourage the deployment of broadband in Hong Kong through the proper allocation of the resources of FTNS licensees. Under other models, such as "retail minus" or "full development costs," prices are not set efficiently, as neither reflects costs that have been subject to market pressures and, in any case, they rely on potentially arbitrary adjustment mechanisms (such as a wholesale discount or an accounting for shared infrastructure). Absent this nexus with market forces, these cost models cannot create pricing that provides adequate economic signals to entrants, such as the appropriate balance of network deployment and interconnection needs. The result will be a misallocation of resources, and a restriction on optimizing the availability of broadband services in Hong Kong.

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entrants to control costs and set competitive prices.

[9] *Broadband Paper* at ¶¶ 9.1.2 – 9.1.6, pp. 26-27.

IV. Existing Regulations Designed to Protect the Integrity of the Network Can Be Reformed to Be Technologically Neutral and Promote the Deployment of Advanced Technologies Without Risk of Harm to the Network

HKNet-Teligent submits that Hong Kong will continue to usher state-of-the art network offerings so long as choices of technology are driven by market forces. The ability of competitors to make their own technology choices will give them the incentive to gauge consumer demand (and concomitant benefit from consumer responsiveness). The only limit should be that competitive technologies operate in harmony with competing demands on the core backbone network.

OFTA should encourage technological innovation, which can be a primary factor in driving Hong Kong competition. It can do so by not undertaking the costly burden of supervising the technology that competitors or others employ. In addition, wireless FTNS licensees should be able to utilize a combination of wireline and wireless technology as technologically or economically efficient, as this will also encourage advancement. Further, the broadband interconnection rights of carriers should not differ based on the technology used.

As all FTNS licensees have an interest in ensuring the stability and efficiency of the telecommunications network, OFTA's concerns regarding network integrity need not be overemphasized. Rather than withholding a broadband interconnection regime until an interference standard is created, deference should be given to technologies and arrangements that are already in use worldwide. Various technologies can and do currently operate satisfactorily in close proximity; for such technologies, a presumption can be drawn that no significant degradation of signal will occur. Claims of interference should be taken seriously, but they should be fully documented. In

addition, perhaps, CWHKT's current procedure for addressing interference on its own network should be adapted for use by all parties.

V. OFTA Should Grant Frequency Spectrum For Microwave Back Haul

As HKNet-Teligent's license does not currently permit it to build and bury transmission facilities, access to adequate spectrum for back haul will help ensure that the Company can address as large a market as possible. HKNet-Teligent would use back haul wireless facilities to connect various pieces of its network, as well as connect to the facilities of other carriers. Wireless back haul can be significantly more cost-effective in comparison to leasing private lines from incumbent carriers or installing new wireline infrastructure. Therefore, the Company respectfully requests that OFTA allocate additional spectrum for wireless broadband back haul purposes in the 15 GHz band.

Conclusion

HKNet-Teligent is moving full-force ahead to implement its fixed wireless network in Hong Kong. In the spirit of it comments presented above, the Company remains ready to work with OFTA and other carriers to ensure that Hong Kong consumers will enjoy the widest choice of competitive broadband alternatives.

Respectfully submitted,

HKNet - Teligent Company Limited

By: Mr. Charles Mok,
mok@hknet.com

Date: January 31, 2000

Resolution Adopted at NARUC's Summer 1998 Committee Meetings

Resolution Regarding Nondiscriminatory Access to Buildings for Telecommunications Carriers

WHEREAS, Historically, local telephone service was provided by only one carrier in any given region; and

WHEREAS, In the historic one-carrier environment, owners of multi-unit buildings typically needed the local telephone company to provide telephone service throughout their buildings; and

WHEREAS, Historically, owners of multi-unit buildings granted the one local telephone company access to their buildings for the purpose of installing and maintaining facilities for the provision of local telephone service; and

WHEREAS, Competitive facilities-based providers of telecommunications services offer substantial benefits for consumers; and

WHEREAS, In order to serve tenants in multi-unit buildings, competitive facilities-based providers of telecommunications services require access to internal building facilities such as inside wiring, riser cables, telephone closets, and rooftops; and

WHEREAS, Facilities-based competitive local exchange carriers, including wireline and fixed wireless providers, have reported concerns regarding their ability to obtain access to multi-unit buildings at nondiscriminatory terms, conditions, and rates that would enable consumers within those buildings to enjoy many of the benefits of telecommunications competition that would otherwise be available; and

WHEREAS, All States and Territories, as well as the Federal Government, have embraced competition in the provision of local exchange and other telecommunications services as the preferred communications policy; and

WHEREAS, Connecticut, Ohio, and Texas already utilize statutes and rules that prohibit building owners from denying tenants in multi-unit buildings access to their telecommunications carrier of choice; and

WHEREAS, The President of NARUC testified before the Senate Judiciary Committee's Subcommittee on Antitrust, Business Rights, and Competition that "[f]or competition to develop, competitors have to have equal access. They have to be able to reach their customers and building access is one of the things that state commissions are looking at all across the country."; and

WHEREAS, The attributes of incumbent carriers such as free and easy building access should not determine the relative competitive positions of telecommunications carriers; and

WHEREAS, The property rights of building owners must be honored without fostering discrimination and unequal access; now, therefore, be it

RESOLVED, That the Executive Committee of the National Association of Regulatory Utility Commissioners (NARUC), convened at its 1998 Summer Meetings in Seattle, Washington, urges State and Territory regulators to closely evaluate the building access issues in their states and territories, because successful resolution of these issues is important to the development of local telecommunications competition; and be it further

RESOLVED, That the NARUC supports legislative and regulatory policies that allow customers to have a choice of access to properly certificated telecommunications service providers in multi-tenant buildings; and be it further

RESOLVED, That the NARUC supports legislative and regulatory policies that will allow all telecommunications service providers to access, at fair, nondiscriminatory and reasonable terms and conditions, public and private property in order to serve a customer that has requested service of the provider.

Sponsored by the Committee on Communications

Adopted July 29, 1998